

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

RONALD SIEGEL
Plaintiff

vs.

KROGER TEXAS, L.P.
Defendant.

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CIVIL ACTION NO: _____

DEFENDANT KROGER TEXAS L.P.’S NOTICE OF REMOVAL

Defendant Kroger Texas L.P., incorrectly named as Kroger Texas, L.P. (“Defendant” or “Kroger”), removes Cause No. 2020-44610 from the 61st Judicial District of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division, pursuant to 28 U.S.C. § 1441(b).

I. STATE COURT ACTION

1. The above-styled cause was initially brought in the 61st Judicial District Court of Harris County, Texas. The state court action is styled *Ronald Siegel v. Kroger Texas, L.P.*, Cause No. 2020-44610. *See* Exhibit A, Plaintiff’s Original Petition, Jury Demand, and Requests for Disclosure (“Original Petition”).

II. PARTIES

2. According to his Original Petition, Plaintiff Ronald Siegel (“Plaintiff” or “Siegel”) is a citizen of Harris County, Texas. *See* Exhibit A.

3. Defendant Kroger Texas L.P. is a citizen of Ohio, having been incorporated under the laws of the State of Ohio and having its principal place of business in the State of Ohio.

III. JURISDICTION

4. This Court has jurisdiction over the pending action, pursuant to 28 U.S.C. § 1332, on the basis of diversity jurisdiction because the claims in this action are between citizens of different states and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

5. As set forth above, Siegel is a citizen of Texas and Kroger is a citizen of Ohio. Therefore, there is complete diversity between the parties in this action.

6. In his Original Petition, Siegel alleges that “[a]s he entered [Kroger’s] store, he lacerated his leg on an errant branch of a Christmas tree displayed in a set.”¹ Siegel has brought a cause of action against Kroger for premises liability.² Siegel alleges that as a “proximate result of the Defendant’s premises liability,” he has suffered injuries and is entitled to recover damages for past and future medical expenses, past and future physical pain and suffering, past and future mental anguish, past and future physical disfigurement, lost wages, and lost earning capacity.³

7. In his Original Petition, Siegel states that he “seeks monetary damages of \$200,000.00 to \$1,000,000.00.”⁴ Based on the Original Petition, it is clear that the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

IV. TIMELINESS OF REMOVAL

8. Kroger was served with process and Siegel’s Original Petition on July 31, 2020.⁵ Thirty days have not elapsed since Kroger was served with process. Pursuant to 28 U.S.C. § 1446, this Notice of Removal is timely and proper.

¹ Ex. A at ¶ 4.1.

² *Id.* at ¶ 5.1.

³ *Id.* at ¶ 6.1.

⁴ *Id.* at ¶ 2.3.

V. CONDITIONS PRECEDENT

9. Kroger has tendered the filing fee of \$400.00 to the Clerk of the United States District Court for the Southern District of Texas, Houston Division, along with the original Notice of Removal. A copy of this Notice of Removal is also being filed in the 61st Judicial District Court of Harris County, Texas, and counsel for Siegel is being provided with a copy of this Notice of Removal.

10. By filing this Notice of Removal, Kroger does not waive any defenses, affirmative claims, counterclaims, or third-party claims that may be available, nor does Kroger admit that Siegel's claims exceed \$75,000.00, exclusive of interests and costs.

VI. EXHIBITS BEING FILED WITH THIS COURT

11. Accompanying this Notice of Removal are the following exhibits, which are being filed contemporaneously in this Court:

- Exhibit A: Plaintiff's Original Petition, Jury Demand, and Requests for Disclosure
- Exhibit B: Service of Process on Kroger
- Exhibit C: Kroger's Special Exception and Original Answer
- Exhibit D: Kroger's Application and Demand for Jury Demand
- Exhibit E: State Court Docket Sheet
- Exhibit F: Notice of Filing Notice of Removal to the 61st Judicial District Court of Harris County, Texas and Counsel for Plaintiff

Because the claims in this action are between citizens of different states and the amount in controversy is in excess of \$75,000.00, exclusive of interest and costs, Kroger removes the above-captioned case from the 61st Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division.

⁵ See Ex. B, Notice of Service of Process.

Respectfully submitted,

BAKER • WOTRING LLP

/s/ Earnest W. Wotring

Earnest W. Wotring

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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing instrument was served on the following through e-filing on August 24, 2020.

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